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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,617	01/08/2002	Hiroyuki Morita	8001-1004	7779
466	7590	07/02/2003		
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			EXAMINER	
			EVANS, GEOFFREY S	
		ART UNIT	PAPER NUMBER	
		1725		7

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/038,617	MORITA, HIROYUKI	
	Examiner Geoffrey S Evans	Art Unit 1725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 June 2003.
 - 2a) This action is FINAL. 2b) This action is non-final.
 - 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- Disposition of Claims**
- 4) Claim(s) 2,3 and 9-12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 - 5) Claim(s) _____ is/are allowed.
 - 6) Claim(s) 2,3 and 9-12 is/are rejected.
 - 7) Claim(s) _____ is/are objected to.
 - 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. The indicated allowability of claims 2,3, and 9-12 is withdrawn in view of the newly discovered prior art document Uchida et al., U.S. Patent No. 5,798,867, that is similar to Nakayama in Japan Patent No. 9-171,152, cited on the Information Disclosure Statement of April 23,2003.
2. The abstract of the disclosure is objected to because it must be only one paragraph long and only 150 words in length. Correction is required. See MPEP § 608.01(b).
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2,3 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida et al. in U.S. Patent No. 5,798,867 in view of Japan Patent No. 61-121,379. Uchida et al. discloses in prior art figure 9 a plurality of beam paths with attenuators (element 110; see column 2,lines 61-67) only shown as dotted lines in at least one of the beam paths. Uchida et al. does not disclose using as an attenuator a rotation cylinder and an optical substrate fixed at a predetermined slope angle with respect to the optical axis provided in the rotation cylinder. Japan Patent No. 61-121,379 discloses a variable attenuator for a laser beam made of a rotation cylinder (element 5 in figure 1) and an optical substrate (element 7) fixed at the Brewster's Angle with respect to the optical axis. It would have been obvious to adapt Uchida et al. in view of

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Japan Patent No. 61-121,379 to provide an attenuator made of a rotation cylinder and an optical substrate fixed at a predetermined slope angle with respect to the optical axis provided in the rotation cylinder in order to provide an operable attenuator usable with laser beams. Regarding claim 3, Uchida et al. discloses using the attenuators to make the beam in each optical path equal to the other beams (see column 2,lines 65-67). Regarding claim 12, Uchida et al. discloses in the prior art the correcting means are provided in each optical path except a reference optical path (see column 2,lines 55-60).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey S Evans whose telephone number is (703)-308-1653. The examiner can normally be reached on Mon-Fri 6:30AM to 4:00 PM, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (703)-308-3318. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9310 for regular communications and (703)-872-9311 for After Final communications.


Geoffrey S Evans
Primary Examiner
Art Unit 1725

GSE
July 2, 2003